

Senate Bill No. 127

Passed the Senate August 25, 2005

Secretary of the Senate

Passed the Assembly August 22, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 23396.2 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 127, Chesbro. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act imposes upon the Department of Alcoholic Beverage Control the responsibility to administer and enforce state laws with respect to alcoholic beverages, including the implementation of alcoholic beverage licensing. Among other things, the act provides for the issuance of an on-sale license for a wine, food and art cultural museum, and educational center that authorizes described persons to sell, furnish, or give alcoholic beverages for consumption on the premises and for various off-sale privileges, but limits the off-sale privileges to the sale of no more than 6,000 cases per calendar year of wine labeled, as provided.

This bill would delete that limitation.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 23396.2 of the Business and Professions Code is amended to read:

23396.2. (a) An on-sale general license for a wine, food and art cultural museum, and educational center authorizes those persons described in subdivision (b) to sell, furnish, or give alcoholic beverages for consumption on the premises and off-sale privileges, as further qualified herein.

(b) For purposes of this division, "a wine, food and art cultural museum, and educational center" is a person which meets all the following conditions:

(1) The retail premises shall include an auditorium, concert terrace, exhibition gallery, teaching kitchen, and library and may be adjacent to a bona fide eating place as defined in Section 23038.

(2) The premises is located in Napa County, operated by a nonprofit entity that is exempt from payment of income taxes under Section 501(c)(3) of the Internal Revenue Code, and includes real estate improvements of a value of at least forty-five million dollars (\$45,000,000).

(c) The department shall upon request and qualification issue an on-sale general wine, food and art cultural museum, and educational center licensee a duplicate of the original license for a premises located on commonly owned property contiguous to, or in close proximity to the original licensed premises. As used in this section, “close proximity” shall mean the original licensed premises is no further than 900 feet from the premises issued the duplicate license regardless of whether the two premises are separated by a public or private street, alley, or sidewalk.

(d) There shall be no limit as to the number of events held on an on-sale general wine, food and art cultural museum, and educational center premises or duplicate premises at which a person or persons issued caterer’s permits under Section 23399 may sell alcoholic beverages so long as the on-sale general license for a wine, food and art cultural museum, and educational center surrenders its license privileges for any portion of the premises at which a catered event is held for the duration of the event.

(e) A wine, food and art cultural museum, and educational center licensed under this section shall not be included in the definition of “public premises” under Section 23039.

(f) The provisions of Article 2 (commencing with Section 23815) of Chapter 5 do not apply to the issuance of on-sale general licenses for a wine, food and art cultural museum, and educational center. An on-sale wine, food and art cultural museum, and educational center license may be transferred to another person, qualified pursuant to subdivision (b), but not to another location. A licensee specified in this section shall purchase no alcoholic beverages for sale in this state other than from a wholesaler or winegrower licensee. Notwithstanding any other provision of this division, licensees may donate wine to a person licensed under this section.

(g) Notwithstanding any other provision of this division, a manufacturer, winegrower, manufacturer’s agent, California winegrower’s agent, rectifier, distiller, bottler, importer, or

wholesaler may hold the ownership of any interest, directly or indirectly, in the premises and in the license of a wine, food and art cultural museum, and educational center, may serve as an officer, director, employee, or agent of a wine, food and art cultural museum, and educational center licensee, and may sponsor or fund educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities of and for a wine, food and art cultural museum, and educational center licensee provided the number of items of beer, wine, or distilled spirits by brand, exclusive of wine labeled for the wine, food and art cultural museum, and educational center licensee authorized in subdivision (a) of this section, offered for sale by the wine, food and art cultural museum, and educational center licensee, which are produced, bottled, rectified, distilled, processed, imported, or sold by an individual licensee holding an interest in, serving as an officer, director, employee or agent of, or sponsoring or funding the programs and projects of the retail licensee, does not exceed 15 percent of the total items of beer, wine, or distilled spirits by brand listed and offered for sale in the retail licensed premises.

(h) An applicant for an original on-sale general license for a wine, food and art cultural museum, and educational center shall, at the time of filing the application for the license, accompany the application with a fee of twelve thousand dollars (\$12,000). The annual renewal fee for a license issued pursuant to this section shall be the same as the applicable renewal fee for an on-sale general license.

(i) An applicant for a duplicate on-sale general license for a wine, food and art cultural museum, and educational center shall, at the time of filing the application for the license, accompany the application with a fee equal to the license fee for an on-sale general license. The annual renewal fee for a duplicate license issued pursuant to this section shall be the same as the applicable renewal fee for an on-sale general license.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that equal treatment is accorded to similarly situated entities at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2005

Governor